

## **REMARKS**

Applicants reply to the final Office Action dated November 15, 2010, within three months. The Examiner rejects all the pending claims. Applicants add new claims 51-53. Applicants cancel claims 19-22, 37, and 42-50 without prejudice or disclaimer to filing similar claims in this or a subsequent application. No new matter has been introduced by the claim amendments or new claims. Reconsideration of this application is respectfully requested.

## **Interview Summary**

Applicants would like to thank Examiner Ruhl for taking the time to speak with Applicants Attorney's Howard Sobelman (Reg. No. 39,038) and Mark Williams (Reg. No. 64,425). Applicants and Examiner agreed that claims with some of the features of Figures 6, 7 and 10 would advance prosecution beyond the cited references. As such, Applicants amend the presently recited claims based on the discussions during today's interview in order to advance the case. While Applicants note that no agreement was reached regarding amendments during the interview, Applicants would like to thank the Examiner for his recommendations which Applicants believes are included in the currently amended pending claims.

## **New Matter Rejection**

The Examiner objects to the 2/27/09 amendments under 35 USC 132(a) because the Examiner asserts that the amendments include new matter. The Examiner rejects claims 42 and 44-50 USC 112, first paragraph, as failing to comply with the written description requirement. In particular, the Examiner asserts that the original specification does not discuss the specific subject matter being incorporated. Applicants have cancelled claims 42 and 44-50 without prejudice or disclaimer. As such, Applicants respectfully request that the Examiner withdraw the objection and the new matter rejection.

## **Rejections under 35 U.S.C. § 103(a)**

The Examiner rejects claims 1, 3-12, 19, 33, 34, 35, 37 and 43 under 35 U.S.C. § 103(a) as being unpatentable over Burton et al., U.S. Patent No. 5,025,372, ("Burton") in view of Tedesco et al., U.S. Patent No. 6,898,570, ("Tedesco") in view of McMullin et al., U.S. Patent No. 6,222,914, ("McMullin"), and in further view of Adams et al., U.S. Patent No. 7,025,674, ("Adams"). The Examiner rejects claims 13-18, 20-23, 36 and 38-41 under 35 U.S.C. § 103(a)

as being unpatentable over Burton, Tedesco, McMullin, Adams, and further in view of Storey, U.S. Patent No. 5,774,870, ("Storey"). Applicants respectfully disagree with the rejections.

Applicants assert that the transaction card of Burton does not accrue loyalty points based on spending activates by a user using the transaction card. Rather, Applicants assert that Burton is directed to providing an award, for example, to an employee based on the employee's performance for an employer. In particular, Burton notes that "incentive companies have contracted with a sponsoring company for providing an incentive program to promote the sales of the sponsoring company's products or services, or to improve the performance of the companies' personnel." (Burton, Col. 1, ln. 12-16.) In other words, the incentive is based on a particular goal achieved by the participant and is not based on the spending activity associated with a transaction account. Moreover, Burton does not allow a user to apply a currency value (converted from reward points based on spending activities) to a completed transaction, where the transaction is identified by a participant, and includes an indicator when applied to the transaction account associating the currency value with the selected completed transaction.

Tedesco generally discloses a customer acquisition system that enables an "offeror service provider" to acquire new customers by making acquisition offers to customers through the billing statements of other businesses. The customer acquisition system of Tedesco uses predefined criteria to automatically include an acquisition offer on a billing statement or on associated promotional materials. The Tedesco billing statement allows the customer to accept the acquisition offer using the billing statement. Moreover, like Burton, Tedesco does not allow a user to apply a currency value (converted from reward points based on spending activities) to a completed transaction, where the transaction is identified by a participant, and includes an indicator when applied to the transaction account associating the currency value with the selected completed transaction.

McMullin generally discloses a system for administering incentive award programs. According to the McMullin system, award points may be earned in response to certain actions by participants and credited to the participant's credit card, but only after a predetermined time delay. The participant must still be a customer in good standing with the credit card sponsor at the end of this predetermined delay period in order to receive the awarded points. Moreover, like Burton, McMullin does not allow a user to apply a currency value (converted from reward points based on spending activities) to a completed transaction, where the transaction is identified by a

participant, and includes an indicator when applied to the transaction account associating the currency value with the selected completed transaction.

Adams generally discloses a system for awarding promotional points through a game such as, for example, a casino game, a video arcade game, and the like. The game includes a display that displays an ongoing balance of promotional points that are earned based on a player's performance. This provides the player with an incentive to play the game and to continue playing the game to accumulate additional promotional points that may be later exchanges for items offered by participating merchants. Adams further discloses that various promotional items may be displayed on the game display along with a point value for each item to further encourage the player to accumulate an adequate balance of promotional points to exchange for a desired item. Moreover, like Burton, Adams does not allow a user to apply a currency value (converted from reward points based on spending activities) to a completed transaction, where the transaction is identified by a participant, and includes an indicator when applied to the transaction account associating the currency value with the selected completed transaction.


As such, Applicants assert that the cited references alone or in combination do not disclose or contemplate at least, "receiving, by said computer based system and from said participant using said device, a merchant name in said fillable form, subsequent to said completion of said first transaction," "receiving, by said computer based system and from said participant using said device, a transaction account type in said fillable form, subsequent to said completion of said first transaction," "receiving, by said computer based system and from said participant using said device, a transaction account level in said fillable form, subsequent to said completion of said first transaction," "receiving, by said computer based system and from said participant using said device, a transaction amount level in said fillable form, subsequent to said completion of said first transaction," "identifying, by said computer based system, said first transaction based on said merchant name, said transaction account type, and said transaction amount, subsequent to said completion of said first transaction," or "applying, by said computer based system in real time, said currency value as a credit for said first transaction of a financial account of said participant, wherein said financial account is stored on a second database system, wherein an indicator of said credit is associated with said first transaction and comprises said merchant name," as similarly recited in independent claims 1, 5, 23, 33, 38 and 53.

Claims 3-4, 6-18, 34-36, 39-41 and 51-52 variously depend from independent claims 1, 5, 24, 33, and 38. Applicants assert that dependent claims 3-4, 6-18, 34-36, 39-41 and 51-52 are differentiated from the cited reference for at least the same reasons as set forth above, as well as their own respective features.

Applicants respectfully submit that the pending claims are in condition for allowance. The Commissioner is hereby authorized to charge any fees which may be required, or credit any overpayment, to Deposit Account No. **19-2814**. If an extension of time is necessary, please accept this as a petition therefore. Applicants invite the Office to telephone the undersigned if the Examiner has any questions regarding this Reply or the present application in general.

Respectfully submitted,

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